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Report Highlights:

Hong Kong has been negotiating with China on a Closer Economic Partnership Arrangement (CEPA) with the PRC and establishing co-located customs and immigration facilities. These initiatives have raised some concerns related to Hong Kong's status as a separate customs territory and the potential impact on third country interests.

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I. Executive Summary

Overview

Hong Kong continues to be a free port after the reversion of sovereignty from Hong Kong to China on July 1, 1997. As claimed by the Hong Kong Government (HKG), Hong Kong has a free, open and consistent trade policy. There is no indication that the government has changed or will change this long running open trade environment and policy. Therefore, no key US agricultural exports to Hong Kong face significant trade barriers with the notable exception of wine which faces an 80% excise tax. Foreign and local businesses operate on a level playing field. Hong Kong is a separate customs territory from China and its markets are characterized by the free flow of goods and capital.

In recent years, there has been strong support in both government and commercial sectors for further economic integration between Hong Kong and the Pearl River Delta (PRD) in the southern part of China. Hong Kong is currently suffering from a sluggish economy and closer economic cooperation between Hong Kong and the PRC is expected to facilitate growth and lead to further restructuring of the Hong Kong economy. The government believes and hopes that Hong Kong can capitalise on closer economic ties by combining Hong Kong service industries with the great manufacturing capacity of the PRD. Both governments are prepared to organize more joint promotions attracting foreign investments to the region. Meanwhile, the Hong Kong government is negotiating with the Chinese government on a Closer Economic Partnership Arrangement (CEPA) and the establishment of co-located Customs and Immigration facilities. The Hong Kong government is aware of the international communities' vigilance over these initiatives. To this end, it reiterates that all negotiations are based on principles which comply with the WTO agreement and will not jeopardize Hong Kong's status as a separate customs territory.

Being pegged with the U.S. dollar at a rate of HK\$7.78, the Hong Kong dollar is highly stable and is fully convertible. There are no foreign exchange controls. Hong Kong's economy is based on fair competition. There are no tariffs imposed on imports except on four dutiable commodities, namely hydrocarbon oil, alcoholic beverages, methyl alcohol and tobacco. Duties are imposed irrespective of whether the product concerned is locally manufactured or imported. Retail sales taxes are absent in Hong Kong. Protectionism does not exist in any form even with such items as quotas, tariffs, import licensing, etc. Import licenses and permits are required for certain products on a non-discriminatory basis for health or phytosanitary purposes.

Multilateral and Regional Agreements

Hong Kong enjoys full autonomy in conducting external commercial relations. The Sino-British Joint Declaration and the Basic Law define Hong Kong as a separate customs territory and allows, using the name "Hong Kong, China", independent participation in relevant international organizations and international trade agreements. Hong Kong is a member of the World Trade Organization (WTO), Asia-Pacific Economic Cooperation (APEC) and the Pacific Economic Cooperation Council (PECC) in its own right. In addition, Hong Kong has observer status on the Trade Committee of the Organization for Economic Cooperation and Development (OECD). Hong Kong's participation in CODEX is not as an individual member but as part of the China's delegation. Under Article 153 of the Basic Law, the views of the Hong Kong government have to be sought before international agreements to which China is a party are extended to Hong Kong. A list of all the treaties that are applicable to the Hong Kong SAR is available at website:

<http://www.justice.gov.hk/choice.htm>

The idea of a free trade agreement with Mainland China first emerged in a Hong Kong General Chamber of Commerce proposal at the start of 2001. Acknowledging that a FTA with China will help Hong Kong's economy, the government has initiated dialogue with Mainland China on this topic. In December 2001, the Hong Kong government obtained China's approval in principle on Hong Kong's proposal as to the establishment of a free trade area. Formal discussions were then launched in January 2002 and the proposal is now named "Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA)". The Hong Kong government claimed that both sides agreed the CEPA consultations should comply with relevant World Trade Organization (WTO) rules and the "One country, Two systems" principle.

During February to March 2002, the Hong Kong government conducted a comprehensive public consultation on the coverage of the proposed CEPA (<http://info.gov.hk/gia/general/200202/04/0204144.htm>) and received over 100 written submissions from various sectors and associations. The Financial Secretary, Antony Leung revealed that all submissions supported the early establishment of the CEPA and the proposed coverage of the arrangement, i.e. trade in goods, trade in services, and trade and investment facilitation. The government did not publicize the results of the consultations in detail in order to avoid any adverse effects on the on-going negotiations.

The Hong Kong and Mainland Chinese governments have had numerous rounds of high level consultations on the subject. Mr. Leung reported to the Legislative Council that the CEPA consultations are progressing steadily. On trade in goods, both sides agreed to aim to reduce or eliminate tariffs and non-tariff measures, and to work out an appropriate set of origin rules. On trade in services, direct sectoral experts exchanges and consultations have been initiated. As regards trade and investment facilitation, work mainly focused on defining the scope of cooperation.

Through the proposed CEPA, the Hong Kong government aims to seek for Hong Kong more market access into the Mainland. There is a reason for concern that the arrangement will affect the economic interests of other countries. The Hong Kong government is well aware that the content and implementation of CEPA will be closely monitored internationally. While refusing to disclose the negotiations in details, the Hong Kong government has reiterated the principles of CEPA, which are to be consistent with rules of the WTO and to maintain Hong Kong's autonomy on trade and economic policy. It pledged to notify WTO of the CEPA when an agreement is concluded, with the text submitted to the WTO Committee on Regional Trade Agreements for examination.

Given the deepening economic cooperation between Hong Kong and Mainland China, both governments are exploring the possibility of streamlining the operation of the boundary through co-location of customs and immigration officials on the Mainland side of the boundary. The idea has raised concerns of the international community over Hong Kong's ability to maintain its current status as a separate customs territory.

The Acting Secretary for Commerce and Industry, Mr. Raymond Young, explained at a recent Legislative Council meeting that both governments have agreed to one basic principle: the relevant departments of the two sides will carry out separate immigration and customs clearance procedures according to their respective laws and regulations. While they operate at adjacent sites on the Mainland side, there will be a buffer zone segregating the facilities of the two sides. The areas to be managed by the Hong Kong government will be clearly designated and Hong Kong laws will apply in such a designated area. The Hong Kong government believes that such an arrangement will preserve the existing mode of operation primarily and will not affect the operation of "One Country, Two Systems".

Mr. Wong explained that the major grounds for such an arrangement are the lack of usable land on the Hong Kong side

for expansion of their control points and the benefits of streamlined procedures for passengers. He noted that there will be no relaxation in Hong Kong's customs and immigration control resulting from the co-location arrangement. There will neither be joint inspection nor sharing of database or computer facilities between the relevant Hong Kong and Chinese authorities. These basic principles will be observed in the implementation of the co-location arrangement.

The Hong Kong government has not yet announced any timetable as to when the CEPA or co-location arrangement will be implemented. It is understood that both issues are still under negotiation. Nonetheless, sources revealed that the Hong Kong government probably will make some announcements on CEPA in June 2003.

Meanwhile, the Hong Kong government is also negotiating with New Zealand on the Hong Kong/New Zealand Closer Economic Partnership Agreement. The arrangement will encompass a wide ranging scope with emphasis on trade and investment liberalization & facilitation.

Agricultural Trade Relations with the U.S.

Hong Kong has insignificant farming and few food manufacturing industries. Agricultural and food supplies largely depend on imports. An open trading system allows Hong Kong importers to source products from all over the world based on price and quality. In 2002, Hong Kong imported US\$10.3 billion of agricultural and food products. China and the U.S. are the two leading suppliers with market shares valued at US\$2.5 billion and US\$1.6 billion, respectively. Major U.S. exports to Hong Kong in 2002 included poultry (US\$330 million), fresh fruit (US\$233 million), hides & skins (US\$145 million), red meats (US\$117 million), hardwood lumber (US\$ 96 million), processed fruit & vegetables (US\$79 million) and tree nuts (US\$65 million). In contrast, Hong Kong's total agricultural, fish and forestry exports to the U.S. amounted to US\$456 million, US\$396 million or 87% of which were re-exports. With a free economy and a sound financial sector, Hong Kong serves as an entrepot for the region and especially for China. About 38% of Hong Kong's imports were re-exported. In 2002, Hong Kong's total re-exports amounted to US\$4 billion, US\$2.9 billion of which were re-exported to China. For details, please refer to the trade statistics provided in the Reference Material section.

II. Agreement Compliance

Hong Kong's trade policy is characterized by zero tariffs, minimum controls and no subsidies or assistance to domestic production or exports.

Tariffs

According to Hong Kong's country schedule, the bound rate for agricultural products has been zero since 1995. Hong Kong adheres to its schedule by imposing no tariffs. US exports do not face trade distorting tariffs in Hong Kong. However, there are four dutiable products in Hong Kong; namely hydrocarbon oil, alcoholic beverages, methyl alcohol and tobacco. The Hong Kong Government does not regard these as tariffs but instead as excise duties because the same rate is applied to commodities manufactured locally. Local importers have to apply for a license from the Hong Kong Customs and Excise Department for the importation of dutiable commodities. In addition, a licensed importer has to apply for a permit for every consignment. The current duties are as follows:

Cigarettes per 1,000 sticks	US\$103 or HK\$804
Cigars per Kg	US\$133 or HK\$1035
Beer & liquor with less than 30% alcohol	40%
Liquor with more than 30% alcohol	100%
All wines	80%

Note : Duties on wine were increased effective March 6, 2002. The old duty was 60%

Licensing Control

Hong Kong has licensing control over frozen meat and poultry and rice. The initial purpose was to ensure a regular and adequate supply and to provide a reserve stock for emergency situations.

As a result of the changing pattern of food supplies in the past few decades, the Hong Kong government concluded that Hong Kong has very little chance of suffering from inadequate supplies of food. Consequently, the licensing requirements of these food items have been modified. Effective August 2000, meat importers were no longer required to register with the Director-General of Trade and Industry as stockholders or to submit monthly reports on import volumes. However, importers are still required to apply for import licenses from the Food & Environmental Department for food safety control purposes. While any interested parties can register with the Trade Department as licensed rice importers, they are still subject to licensing requirements so the government can continue to monitor the supply and stock of rice.

Only local companies are eligible to apply for import licenses for these commodities. Licensed importers are then free to source products from all over the world.

Hong Kong' Rice Trade Undergoes Full Liberalization

Hong Kong's rice trade was fully liberalized on January 1, 2003, with the elimination of the rice import quota system after 48 years of implementation. The Rice Control Scheme was introduced in 1955 when rice supply was a major concern of the community. The system was designed to make sure Hong Kong had adequate supplies to meet local demand. The purpose was not to curb imports and protect local production.

In view of the gradual changes in the demand and supply of rice in Hong Kong, the government reviewed the system and started to take steps to relax trade restrictions since 1997 to enhance market competition. The significant changes over the past few years included : (1) lifting capital and financial requirements, (2) any parties being allowed to register as importers, (3) allowing importers to sell directly to consumers since 2001, (4) eliminating restrictions on import quantity, and (5) reducing the reserve stock level gradually from 45,000 tonnes before 1998 to 13,500 tonnes in 2002.

All these changes have had a combined effect of removing entry barriers for local companies and reducing operation costs. It is envisaged that more new players will enter the market and retail prices will be reduced. (For details, please refer to Gain report #HK3002)

Sanitary and Phytosanitary Measures

Hong Kong's food safety control is based on part V of the Public Health and Municipal Services Ordinance and its subsidiary legislation. The basic tenet is no food intended for sale should be unfit for human consumption. If an imported food is not covered by Hong Kong legislation, the Hong Kong government refers to the Code of hygienic practice recommended by the Codex Alimentarius Commission of the Food and Agriculture Organization of the United Nations, World Health Organization or other Good Manufacturing or Agricultural Practice of recognized standards as appropriate.

Importing food into Hong Kong is simple. Special permits are required only for the following selected food items due to their perishable or high-risk nature:

- a) game, meat and poultry;
- b) milk and milk beverages; and
- c) frozen confections.

The Hong Kong government recognizes a number of competent authorities in foreign countries for meat certification purposes. If an import consignment for meat and poultry products is accompanied by a certificate issued by a recognized competent authority, it can be imported to Hong Kong without any permit issued by the Hong Kong government. The U.S. Department of Agriculture (USDA) is regarded as a competent authority. Therefore, US poultry and meat products can be exported freely to Hong Kong as long as they have a valid health certificate issued by USDA. However, permits issued by the HKG for ground meat imports and chilled meats are required regardless of country of origin. (New requirement for the importation of chilled meats is in place effective April 1, 2002. For details, please refer to Gain report #2012.)

Hong Kong's labeling requirements are well stipulated. They are applied equally to domestic and imported foods. A "best before" date is required for pre-packaged food. If the food is highly perishable, a "use by" date has to be clearly displayed on the packaging. The marking or labeling of pre-packaged food can be in either English or Chinese. (For details, please refer to FAIRS report #2031.)

Hong Kong's existing legislation does not impose specific labeling requirements on ingredients or additives which may cause allergic reactions in some individuals. Therefore the Hong Kong Government has made a legislative proposal that 8 categories of substances should be declared in the list of ingredients on the food package in accordance with Codex recommendations. The change is that the labeling of the 8 specified categories has to be very specific. Take "cereal", one of the eight categories, as an example. According to the existing legislation, it is adequate if the label contains the word "cereal". After the amendment becomes effective, the label has to be specific enough to declare whether the cereal is wheat, rye, or barley. This proposal if passed will have a grace period of at least 18 months. The legislative proposal is still under review and the effective date is to be determined. The 8 categories are:

- a) cereals containing gluten, i.e, wheat, rye, barley, oats, spelt or their hybridized strains and products;
- b) crustacean and crustacean products;
- c) eggs and egg products;
- d) fish and fish products;
- e) peanuts, soybeans and their products;
- f) milk and milk products (lactose included);
- g) tree nuts and nut products; and

h) sulfite in a quantity of 10 parts per million or more.

Only a few items are under absolute prohibitions. Such items include smokeless tobacco products which the WHO has ruled to be carcinogenic; food containing non-permitted coloring matter, artificial sweeteners, aflatoxin, erucic acid, preservatives, anti-oxidants; and certain metals are prohibited to protect public health.

In short, any controls or bans on food are applied on a non-discriminatory basis to all imports and products manufactured locally.

Labeling on GM Foods

Towards the end of 1999, the Hong Kong public, particularly the green groups and consumer organizations, started to demand the Hong Kong government to have a labeling policy on GM foods mainly on the grounds of consumers' right to know. The Legislative Council also moved a motion to urge the government to look into the issue. In face of the mounting pressure, the government conducted a long run consultation and education exercise, which included two public forums discussing the safety and labeling of GM foods respectively. In February 2001, the Environment and Food Bureau issued a "GM Food Labeling" consultation paper and solicited views from the public. Three options for implementation were proposed: voluntary labeling, mandatory labeling, and voluntary labeling to be followed by mandatory labeling at a later date. The consultation period ended in the end of May. For results of the consultation exercise, please refer to GAIN Report#HK1072.

The Hong Kong government basically does not question the safety of GM foods. It endorses the findings of the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) that "the use of modern biotechnology does not result in food becoming inherently less safe than that produced by conventional means." As part of their ongoing review of GM food labeling, the government has just completed a Regulatory Impact Assessment (RIA) on the economic impact of a mandatory labeling policy. The report is likely to be submitted to the Legislative Council in late March 2003. While details of the RIA have not been announced, no drastic changes on labeling requirements are expected given the current slow economy. Instead, the Hong Kong government may explore the possibility of following the Codex system in implementing a pre-market approval system for GM goods.

Meanwhile, the Legislative Council Panel on Food Safety and Environmental Hygiene has commissioned the Research and Library Services Division (RLSD) to prepare a research paper on several countries' regulatory framework of GM food labeling. The research paper will focus on five areas: 1) legislative history on GM food labeling; 2) labeling regulations and policies; 3) authorities involved in GM food labeling; 4) enforcement methods; and 5) cost and benefits of GM food labeling. The RLSD has chosen to study the regulatory framework in three countries, namely, the U.S., Australia and Japan. A comparison of the various attributes of the regulatory framework in these three countries will be made. The paper will be completed by the end of March.

Live Poultry Health Certification

As a result of the "bird flu" crisis in Hong Kong, in February 1998, the HKG revised the health certification requirements covering the importation of live birds.

1. Health certificates must certify the following:

(a) the bird(s) must:

(i) show no clinical signs of disease;

(ii) not have been kept at premises or at a farm or other establishments where there is serological or virological evidence of H5 avian influenza virus infection having occurred within the 180 days immediately preceding the day on which the health certificate was issued; and

(iii) have been segregated from other birds for the 5 days immediately preceding the day on which the health certificate was issued; and

(b) the bird or birds, or a sample of birds forming such portion of all birds covered by the certificate as may be acceptable to the Director (of Agriculture and Fisheries Department), was or were subject to a diagnostic test for H5 avian influenza within the 5 days immediately preceding the day on which the health certificate was issued with negative results.

2. The health certificate must specify the name and address of the premises or farm or other establishment from which the bird or birds is or are being brought into Hong Kong Special Administrative Region and the quantity of birds involved.

Others

The import, export or possession of endangered species of animals and plants is strictly regulated in Hong Kong in accordance with the Animals and Plants (Protection of Endangered Species) Ordinance. The Ordinance gives effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Ordinance applies to all parties, including traders and individuals. Examples of controlled animals (including their parts or derivatives) /wild plants/controlled medicines are as follows: worked ivory; rhinoceros horn; tiger bone or other parts; bear gall bladders, bile and bile power; American ginseng; orchids; medicine containing or claiming to contain rhinoceros or tigers ingredients; and manufactured products of certain species. The purpose is to protect animals and plants of endangered species. A full list of protected species is contained in the Ordinance's Schedule, which is available from the website: <http://www.info.gov.hk/justice>.

In November 2000, the Hong Kong Agriculture, Fisheries and Conservation Department (AFCD) amended the Animals and Plants (Protection of Endangered Species) Ordinance to include cultivated ginseng as a regulated product. The importation of cultivated ginseng (including small quantities carried by travelers) has to be accompanied by a CITES certificate issued by the exporting country. The regulation of wild ginseng has long been under control even before November 2000. The importation of wild ginseng requires not only a CITES certificate from the exporting country but also an import permit issued by AFCD.

To prevent the introduction and spread of plant pests, the Hong Kong government requires a Plant Import Licence or phytosanitary Certificate for the importation of all propagative plants.

In late 2001, the Hong Kong Government enacted a new regulation under the Public Health (Animal and Birds) Ordinance, Cap. 139 to control the feeding of drugs and chemicals to food animals, and to control chemical residues in

livestock and livestock products. The new Regulation prohibits the presence of seven chemicals, which could cause immediate harm to humans, in local and imported food animals in Hong Kong. These are the beta-agonists of clenbuterol and salbutamol; the synthetic oestrogenic hormones of hexoestrol, diethylstilboestrol, and dienoestrol, and the antibiotics of chloramphenicol and avoparcin. It also establishes "Maximum Residue Limits" (MRLS) in line with international standards for 37 restricted chemicals in tissues and milk of local and imported food animals. Please refer to GAIN report #HK2001 for details of the Regulation.

Export Subsidies & Domestic Support

The Hong Kong government fully supports a free trade policy. It does not provide any subsidies on exports and local production of agricultural and food products.

III. Trade Barrier Catalog

For more information, see discussion of excise taxes in "Tariffs" segment of Section II.

IV. Reference Material

Hong Kong's Agricultural, Fish & Forestry Imports by Major Supplying Countries

Country	Millions of US Dollars			% Share			% Change - 02/01 -
	2000	2001	2002	2000	2001	2002	
--The World-	11,049	10,527	10,324	100.00	100.00	100.00	-1.93
China	2,564	2,498	2,502	23.21	23.73	24.24	0.16
United States	1,747	1,612	1,564	15.81	15.31	15.15	-2.97
Thailand	598	585	558	5.41	5.56	5.41	-4.59
Australia	565	550	528	5.11	5.23	5.11	-4.07
Malaysia	422	475	450	3.82	4.52	4.36	-5.36
Indonesia	519	450	431	4.70	4.28	4.18	-4.28
Japan	412	364	384	3.73	3.45	3.72	5.57
Brazil	334	354	381	3.02	3.36	3.69	7.62

Hong Kong's Agricultural, Fish & Forestry Re-exports by Major Destinations

Country	Millions of US Dollars			% Share			% Change - 02/01 -
	2000	2001	2002	2000	2001	2002	
--The World-	4,651.52	4,162.90	3,966.91	100.00	100.00	100.00	-4.71
China	3,412.74	3,067.00	2,930.17	73.37	73.68	73.87	-4.46
United States	394.11	376.85	396.09	8.47	9.05	9.99	5.11
Macau	108.29	98.91	100.26	2.33	2.38	2.53	1.37
Japan	140.70	101.75	75.00	3.03	2.44	1.89	-26.29
Taiwan	108.86	89.54	68.90	2.34	2.15	1.74	-23.04

Hong Kong's Major Agricultural, Fish & Forestry Imports from the U.S.

	Millions of US Dollars			% Share			% Change - 02/01 -
	2000	2001	2002	2000	2001	2002	
Poultry Meat	480.16	419.46	329.50	57.39	55.06	50.57	-21.44
Fresh Fruit	230.35	226.60	233.16	30.76	29.82	29.07	2.9
Hides & Skins	85.06	119.86	145.05	16.03	18.72	22.18	21.02
Red Meats	125.91	108.13	116.75	18.59	16.43	18.31	7.97
Hardwood Lumber	64.10	78.32	96.34	12.08	18.10	21.63	23
Processed Fruit & Vegetables	91.74	78.61	79.23	29.79	30.08	30.04	0.79
Tree Nuts	69.94	51.16	65.49	49.78	38.34	33.99	28.02
Cotton	78.90	81.02	59.34	65.50	70.85	74.97	-26.76
Fish & Seafood Products	50.65	40.98	44.84	2.60	2.32	2.53	9.43
Ginseng roots	53.62	28.44	35.12	37.42	22.49	26.00	23.48

Source : Hong Kong Census & Statistics Department